In the High Court of Uttaranchal at Nainital.

A.O. No. 1450/2001

Smt. Ranjit Kaur and 3 others … Appellants.

Vs.

Inderjeet Singh and another … Respondents.

Sri L.K. Tiwari , learned counsel for the appellants.
Sri D.K.Sharma, learned counsel for the respondent.

Date: 18-8-2004

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been filed against the award dated 25-4-2001, made by Motor Accident Claims Tribunal/Addl. District Judge, Dehradun, in M.A.C.T. Case No. 8/1996.

2- The brief facts of the appeal are that Gurcharan Singh was the permanent resident of Ludhiana but was staying with his family as guest at premises no.150, Race Course, Dehradun. On 1.7.1995 he hired Maruti Van No. U.P.-07-B-1551 for a pleasure trip to Poanta Sahib. The Maruti car was owned and being driven by Inderjeet Singh respondent. In the Maruti van Gurcharan Singh, Km. Navneet Kaur, Smt. Amrit Kaur, Smt. Kuldeep Kaur and others were coming back from Harbetpur side towards Dehradun. The driver of the Maruti van was driving it at a very high speed and he tried to overtake all the vehicles which were moving ahead. As a result of high speed he lost control over the van at village Bada Rampur and the van turned towards right patri and hit a pedestrian Abdul Hussain and then collided against a Pilkhan tree resulting in the death of Gurcharan Singh, who was sitting on the front seal of the van. Other passengers also received injuries in the accident. The tribunal awarded a compensation of Rs. 4,21,000/- along with 9% interest.

3- The appellants have filed the appeal on the grounds that the tribunal was erroneous and arbitrary while calculating the amount of the compensation. Another ground taken is that the tribunal while

awarding the compensation has deducted the amount of personal expenses etc more than 1/3rd which could not have been done in view of the provisions made in II schedule of the Motor Vehicles Act appended to section 163-A.

4- The learned counsel for the appellants has pressed the appeal only on the ground that the tribunal could not have deducted the amount more than 1/3rd while awarding the compensation. The tribunal on issue no.2 has recorded the finding of fact that the annual income of the deceased was Rs. 48,000-00 . After deducting 1/3rd of Rs. 48000/- it come to Rs. 32000/-. On this amount 32,000/- multiplier of '15' is to be applied as per schedule, which comes to Rs. 4,80,000/-. Accordingly the compensation ought to have been Rs. 4,80,000/-. The tribunal wrongly calculated the dependency of the claimants as 27,600/- per annum which is contrary to the provisions of schedule appended to section 163-A of the Act.

5- We therefore partly allow the appeal and enhance the compensation from Rs. 4,21,000/- to Rs. 4,80,000/- along with 9% interest per annum from the date of petition upto the date of final payment of award money. The appeal is disposed of accordingly.

(B.S. Verma, J.) **(P.C.Verma, J.)**

ISB